Scott. II-37—45,000—1

Law (Genl) (1935.) Departme

M.A. SERIES.

G.O. No. 2924

DATED 11 - 9 - 35

[Despatch Abstract.]

Suits - OS.Nos.123/32 and 23/34 on the file of the Sub-C
Mangalore - Escheat cases - Personal properties of Draup
Withdrawal - Sanctioned.

C.F. 31

LAW (GENERAL) DEPARTMENT.

CURRENT No.

Received ..... 19 *Registered* L.C. 4928 B 19
23.8.35

Subject.

Suits - (South Kanara) - Mangalore Sub Court - O.S. Nos. 123/32 and 23/34 - Escheat case - Personal properties of late Draupadi - Withdrawal - Orders.

ENCLOSURES.
No. .....
.....
Spare copies.....

Reference No. A.3512/35-1

Station Madras. *Dated the* 21st August 1935.

From

A.R.C. Westlake Esq., I.C.S.,
Secretary, Land Revenue. &
The Board of Revenue, ~~Revenue~~ Settlement, ~~etc.~~
~~Separate Revenue.~~

A.H.A. Todd Esq., I.C.S.,
Commissioner of Land Revenue.

~~Resolution~~
~~Reference.~~

Read the following:-

Letter from E.M. Gawne Esq., I.C.S., Collector of South Kanara, No. Ref. A3-7354/28, dated 13th August 1935.

REFERENCE.

Submitted to Government.

2. The Board supports the Collector's proposal.

3. The Collector is requested to apply for an adjournment of the suits, as the orders of the Government have to be obtained in the matter.

N. Srinivasa Rao
for Secretary. 21/8

To the Secretary to Government, Law (General) Department
with (1) copy of Collector's letter.
(2) Govt. Pleader's letter in original.
(3) Application and affidavit in original.

To the Collector of South Kanara (para. 3 only)

KSH HKS 21/8

Copy of letter from E.M. Gawne Esq. I.C.S., Collector of South Kanara, No. Ref. A3-7354/28 dated 13th August 1935.-

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Suits - (South Kanara) - Mangalore Sub Court - O.S. Nos. 123/32, 122/33, 136/33, 23/34, 27/34 and 37/34 - Escheat case - Personal properties of late Draupadi alias Padmavati - Compromise.

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Ref:- B.P. Mis. No. 519 dated 6th February 1935.

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Attempts were made by both the former and the present Government Pleaders to effect a compromise, but to no useful purpose. I find that a compromise cannot be arranged owing to the lack of agreement between the parties. As the idea of contesting the suits has been dropped the Government Pleader proposes that the two suits filed by Government viz. O.S. Nos. 123/32 and 23/34 may be formally withdrawn by filing applications and affidavits, drafts of which are enclosed. In the circumstances explained by the Government Pleader in his letter No. Ref. G.93/35 dated 9-8-1935 (copy enclosed), I think that this is the best course. The suits stand adjourned to 27th August 1935. I request that the Board may be pleased to move Government to permit me to file the applications with the affidavits of my suits clerk, the drafts of which may be approved.

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KA+MKS

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Ref.G.93/35.

Mangalore,
9th August, 1935.

From

M.R.Ry. B. Venkatarao Baliga Avl., B.A.,B.L.,
Ag. Government Pleader,
Mangalore.

To

The Collector of South Kanara,
Mangalore.

Sir,

Escheat - Mangalore Taluk - Panjikal village - Padmavati alias Draupadi Amma deceased - O.S.Nos. 123/1932 and 23/1934 Sub Court, South Kanara - Collector's querry dated 7-8-1935.

I 239 CPC

I would suggest that formal applications be made in the above suits under Order XXIII Rule 1 (1) of the Civil Procedure Code for permission to withdraw the suits. If my suggestion is approved two affidavits from the suits clerk as per draft enclosed may be sent to me. I have also enclosed a draft of the application to be made.

Costs are in the discretion of the Court, but I think having regard to all the circumstances, the Court may not direct the Government to pay the costs of the opposite party. I am further of opinion that it will be more graceful to withdraw the suits rather than lose the same after contest when the Government is morally convinced that there can be no escheat and I am sure that such action on the part of the Government will also be appreciated by the Civil Courts.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- B. Venkatarao Baliga.

(True copy).

15.8.35

4

In the Court of the Subordinate Judge of South Kanara.

O.S.No. 23/34.
123/32.
I.A.No. /1935.

Between:

The Secretary of State for India-in-Council, represented by the Collector of South Kanara.) Petitioner.

and

Sheshagiri Rao and others
R. Achutha Pai Respondents.

Application under Order XXIII Rule 1 (1) of Act V of 1908.

For the reasons stated in the affidavit produced herewith, the plaintiff prays that he may be permitted to withdraw the suit.

Mangalore,
8-1935. Ag. Govt. Pleader.

(True copy).

15.8.35

In the Court of the Subordinate Judge of South Kanara.

O.S.No. 23/34. / 123/32.

Between:-

The Secretary of State for India-in-Council represented by the Collector of South Kanara — Plaintiff.

and

Sheshagiri Rao and others. / B.Achutha Pai — Defendants.

AFFIDAVIT.

I, son of aged about years. clerk, Collector's office, residing in Mangalore Town, do hereby solemnly affirm and state as follows:-

1. I am the suits clerk in the Collector's Office and I am acquainted with the facts of this case.

2. I say the suit is to recover the amount due in respect of a mortgage executed in favour of one Draupadi alias Padmavati Amma who died intestate on 9.5.1927.

3. I say after the death of the said Draupadi Amma nobody having come forward to claim her assets her personal assets were taken possession of by the Government and the matter was referred to this Court under Clause 7 of Section 16 of Madras Regulation III of 1802 and only one Upendra Kamthi put in a claim which was dismissed by this Court and there being no other claimants this Court sent a report to the Local Government through the District Judge and the Local Government by their order G.O.No.4918 M.S., (Law-General) dated 20.11.1930 authorised the District Judge, South Kanara to transfer to the Collector the unclaimed personal ------- properties and documents of the deceased Padmavati alias Draupadi Amma and the Collector of South Kanara was requested to take steps to recover the amount due in respect of the mortgages.

4. The above suit was accordingly filed.

5. Since the institution of the above suit several persons have come forward claiming to be reversioners entitled to the estate and the suits filed by them are pending disposal.

6. Under the circumstances stated above, the Government have been advised not to prosecute the above suit any further, but allow the several claimants to get the question as to who is entitled to estate decided.

7. I say there was a proposal to compromise these suits but owing to the lack of agreement between the several claimants nothing could be done.

8. I say it is therefore, necessary that the Government should be permitted to withdraw this suit.

9. I say all the above facts are true.

Solemnly affirmed before me and signed in my presence this day of August 1935.

15.8.35.

9

Law (General Dept

4928-B CF From the Board of Rev.,L.R.& S., Ref.No.A.3512/35-1 d.21.8.35.

Suits-O.S.Nos.123/32 and 23/34 on the file of the Sub Court, Mangalore- Escheat cases- Personal propet--ties of late Draupadi- Withdrawal

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A.S.

(T) In G.O.No.4918 L.G. d. 20.11.30, orders were passed declaring the properties left by the deceased Draupadi Amma of Panjikal in the district of South Kanara (who died intestate) escheated to Government, ~~after observing the condition prescribed in section 7 of the Madras Regulation III of~~ 1802. The escheated properties included the loans advanced by the deceased on the execution of mortgage bonds amounting to Rs.4,000/- as detailed below:-

Rat p3 1/Gr No 37289 (R) 12.1032

Name of the borrower or mortgagor	Amount of the loan
(1) Achutha Bai and others	Rs.2,000/-
(2) Paul Andrew D'Sa	Rs.1,000/-
(3) Seshagiri Rao	Rs.1,000/-

Mortgager No (2) died; but his widow paid the amount together with interest and penal interest amounting in all to Rs.1,132-8-0. The Government sanctioned the institution of suits in G.O.No.3728 L.G. d. 12.10.32 for the recovery of a sum of Rs.3,086-8-0 due by mort--gagors No.(1) and a sum of Rs.332-8-0 being the inter--est and penal interest due by mortgagor No.(3)- time having been already given to him by the Collr for the payment of the principal. These suits are O.S.Nos.123/32 and 23 of 1934 on the file of the Sub Court Mangalore.

Para 2 of the Collr's letter at p3 of G of R

The Collector in his letter Ref.No.A3-7354/28 d. 21. 11.34, recommended, in consultation with the local Government, that compromise might be effected ~~claiming the assets of the deceased~~ in these suits as well as others filed by Pundalik Kamthik and others ~~claiming the assets of the deceased and~~ impleading the Government also as a defendant. Particulars of the suits in which the Government were impleaded as one of the defdts with

News 102 in the tab statt at p2/- Gr no 3834 (B) 2-2-35

Pt 7 of Gr (B)

505

uthorities sanctioning their defence are furnished below:-

O.S.No. in the Sub Court, Mangalore	Names of Plaintiffs	Names of defdts.
122/33	Pundalika Kamthi & 2 others	[illegible] others including Govt
27/34	Do	[illegible] and others including Govt.
37/34	Do	[illegible] and 4 others including Govt.
136/33	Upendra Kamthi	Government (1st Deft) and 7 others

The local Government pleader held that Mr. [illegible], a retired Huzur Sarishatadar, who was one of the claimants to the properties of the deceased Draupadi Amma could successfully establish his title as reversioner to the properties, and that at any rate the Government would not succeed in the suits. The Govt. Pleader, [illegible] also was consulted in the matter. He said that the Government had to prove that the deceased died intest to and recommended that the opinion of the local G.P. who should be more conversant with the facts, might be acted on. ~~As the Collector was recommending the suits to be compromised,~~ The recommendation was accepted and the Board was asked to obtain from the Collr a draft of the terms of the compromise in consultation with the local Govt. pleader, and submit it to Government for the approval, ~~of Govt.~~

Vide G.O.No.383 L.G. d. 2.2.1935.

The Collector now reports that attempts made by both the previous and the present Govt. Pleaders to effect a compromise in the suits proved futile owing to the lack of agreement between the parties. As the idea of contesting the suits had been dropped, ~~the~~ the Government pleader has proposed that the two suits filed by Govt. viz. O.S.Nos. 123/32 and 23/34 might be formally withdrawn by filing applications and affidavits drafts of which are at pp.4-6 C.F.

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p3 C.F. Para 2 p1 C.F. The local G.P.'s letter is at p.3 C.F. The Board supports the Collr's recommendation. If the Govt withdraw the suits, the plaintiffs in the suits in which the Government also have been impleaded as likewise, a defendant may apply for withdrawal of their suits under Order XXIII- rule 1(1) in so far as the Government are concerned as the subject matter of the suit is one and the same in all the suits i.e., claim to the property of the deceased Draupadi Amma.

p 23 of the C.P.C. Limitation Act

It is submitted that the drafts of the application for withdrawal and the affidavit at pp.4-6 C.F. may be approved and the withdrawal of the suits in which the Govt are plaintiffs may be permitted.

A draft order is submitted.

Rev. may see.

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3.9.35

5/9

4/9/35

5.9.35

d.C.no. 4928 B-1
6.9.35.

Rev

Rev Depn.

ASST. SECRETARY TO GOVT. 6 SEP 1935 REVENUE DEPARTMENT

May be issued & returned to Law (Rev)

Rev 3540B
6-9-35

6.9.35

7.9.35

Law (Gen'l)

9 - SEP 1935 ASSISTANT

Rev W. on. 3540 B/35
7-9-35

p7 C.F. [C. No 5229-B] from the Board of Rev LRS Ref No 3512/33-2 d. 7.9.35

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H.S.

May be circulated to H to C(1) for approval of the draft. The matter has been posted to 2-9-85. and the comments of the engineers

8/9-9-85

BR 9/9

JS

The draft maybe approved

CL
10-9-85

HHC, KCR
11-9-85